

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of AUTUMN LANE SAMBRANO,  
ANTONIA ROSE SAMBRANO, and MICHAEL  
CLAYTON SAMBRANO, Minors.

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DEPARTMENT OF HUMAN SERVICES, f/k/a  
FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED  
August 17, 2006

Petitioner-Appellee,

v

ANTONIO SAMBRANO, II,

Respondent-Appellant,

and

LYNETTE JEANE SAMBRANO,

Respondent.

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No. 267201  
Oakland Circuit Court  
Family Division  
LC No. 03-680769-NA

Before: Saad, P.J., and Jansen and White, JJ.

PER CURIAM.

Respondent-appellant appeals as of right a trial court order terminating his parental rights to the minor children under MCL 712A.19b(3)(a)(ii), (c)(i), and (g).<sup>1</sup> We affirm.

Respondent argues that the trial court clearly erred in finding that one or more statutory grounds for termination were established by clear and convincing evidence. We disagree. In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence.

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<sup>1</sup> Although the trial court transcript indicates that respondent-appellant's rights were terminated under MCL 712A.19b(3)(a)(ii), (c)(i), and (g), respondent-appellant's brief on appeal addresses only termination under (c)(i), and (g). In light of our conclusion that termination was proper under MCL 712A.19b(3)(c)(i) and (g), we need not address whether termination was alternatively warranted under MCL 712A.19b(3)(a)(ii).

*In re Jackson*, 199 Mich App 22, 25; 501 NW2d 182 (1993), citing *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). “Once a ground for termination is established, the court must issue an order terminating parental rights unless there exists clear evidence, on the whole record, that termination is not in the child’s best interests.” *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000); see also MCL 712A.19b(5). We review the trial court’s determinations for clear error. *Trejo*, *supra* at 356-357.

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. The conditions that led to adjudication were a lack of housing, parental neglect, inconsistent employment, and substance abuse. The evidence revealed a clear inability on the part of respondent-appellant to rectify those conditions, despite having over two years to do so. Specifically, during the proceedings, respondent-appellant failed to maintain stable housing and employment, to develop a custodial plan for his children, or to regularly visit the children. He also failed to address his substance abuse by attending AA meetings or random drug screens, requirements which were specifically ordered by the court. In addition, respondent-appellant’s failure to comply with the requirements of his court-ordered parent-agency agreement was indicative of neglect, *Trejo*, *supra* at 360-361 n 16, and clearly established that he was unsuccessful in addressing the conditions that led to the adjudication. Respondent-appellant’s failure to engage in services for a significant period of time, to maintain contact with his caseworkers, and to visit the children during the proceedings further showed that he would not likely make meaningful efforts towards reunification if given more time to do so. Respondent-appellant’s failure to appear during both phases of the termination proceedings, despite having notice thereof, reinforces this conclusion. We find no clear error in the trial court’s determination that termination was warranted under MCL 712A.19b(3)(c)(i) and (g).

Next, respondent-appellant argues that the trial court erred in terminating his parental rights in light of petitioner’s failure to provide services and assistance directed at reunification with his children. We disagree. We review a trial court’s factual findings for clear error. MCR 3.977(J); *In re Terry*, 240 Mich App 14, 22; 610 NW2d 563 (2000). The record revealed that petitioner formulated and the court adopted a parent-agency agreement, intended to address the conditions that led to the initial adjudication. The record also revealed that petitioner referred respondent-appellant for a psychological evaluation, drug screens, parenting classes, and family counseling. Petitioner further provided respondent-appellant with the opportunity to visit his children and encouraged him to contact the agency in order to schedule visitation. However, after initially complying with services, respondent-appellant stopped engaging in services that were already in place, refrained from visiting with his children, failed to contact his caseworkers, and, towards the end of the proceedings, stopped attending court hearings. Under these circumstances, respondent-appellant’s failure to properly address the conditions that led to adjudication cannot be attributed to a lack of effort by petitioner. We find no error in the trial court’s finding that petitioner made reasonable efforts toward reunification.

Respondent-appellant next argues that the trial court’s refusal to adjourn the termination proceedings to allow the children to undergo updated psychological evaluations denied him the opportunity to present evidence during the best-interests phase of the proceedings in violation of his procedural due-process rights. We disagree. Respondent-appellant failed to raise his due process argument before the trial court, and thus failed to preserve this issue for review. *In re Hildebrant*, 216 Mich App 384, 389; 548 NW2d 715 (1996). We review unpreserved claims of

constitutional error for outcome-determinative plain error. *Id.*; *Kern v Blethen-Coluni*, 240 Mich App 333, 336; 612 NW2d 838 (2000).

“A procedural due process analysis requires a court to consider ‘(1) whether a liberty or property interest exists which the state has interfered with, and (2) whether the procedures attendant upon the deprivation were constitutionally sufficient.’” *In re CR*, 250 Mich App 185, 204, 646 NW2d 506 (2002), quoting *In re AMB*, 248 Mich App 144, 209; 640 NW2d 262 (2001). The following factors are considered in determining what due process requires: (1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used; (3) the probable value of additional or substitute procedural safeguards; and (4) the government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute safeguards would entail. *In re MU*, 264 Mich App 270, 281; 690 NW2d 495 (2004), citing *In re Brock*, 442 Mich 101, 111; 499 NW2d 752 (1993).

We recognize respondent-appellant’s private interest in providing care and custody for his children. *Brock, supra* at 114-115. However, while updated psychological evaluations might have provided the court with information concerning the effect of termination on the children, such evidence would not have affected the outcome of the proceedings given the evidence in this case. Considering respondent-appellant’s continued lack of housing, employment, or a custodial plan for the children, and his lack of effort to continue the relationship with them, the record revealed that respondent-appellant remained clearly unable to care for the children. In view of this evidence, the court’s refusal to adjourn the proceedings did not increase the risk of an erroneous deprivation of respondent-appellant’s interest in child rearing. Moreover, although an adjournment would not have placed a substantial burden on the trial court, the state’s interest in protecting the welfare of the children, including their right to stability and permanency, was made even greater by the fact that they had already been in the court’s temporary custody for over two years.

We cannot conclude that the trial court’s decision on this matter constituted outcome-determinative plain error. *Hildebrant, supra* at 389; *Kern, supra* at 336. Balancing the factors, we find that the court’s refusal to adjourn the best interests phase of the proceedings to permit updated psychological evaluations of the children did not deny respondent-appellant the right to present evidence or the right to procedural due process. It is evident that the court provided respondent-appellant with a meaningful opportunity to be heard during the best-interests phase, as due process requires. *Reed v Reed*, 265 Mich App 131, 159; 693 NW2d 825 (2005).

Finally, the trial court did not clearly err in determining that the children’s best interests did not preclude termination of respondent-appellant’s rights. MCL 712A.19b(5). Although the evidence showed that the children and respondent-appellant shared a bond, respondent-appellant clearly had not resolved the problems that brought the children into the temporary custody of the court. The evidence showed that the children needed permanency, stability, and a parental

figure, which respondent-appellant could not provide. We find no clear error in the trial court's best-interests determination. *Trejo, supra* at 356-357.<sup>2</sup>

Affirmed.

/s/ Henry William Saad

/s/ Kathleen Jansen

/s/ Helene N. White

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<sup>2</sup> Respondent-appellant briefly contends that the trial court failed to make sufficient factual findings with respect to its best-interests determination. Although the trial court's findings in this regard were not extensive, they were sufficient to inform respondent-appellant of the basis for the court's decision. MCR 2.517(A)(2); *Triple E Produce Corp v Mastronardi Produce, Ltd*, 209 Mich App 165, 176-177; 530 NW2d 772 (1995).